



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 9, 1998

Ms. Lisa L. Smestuen
Senior Staff Attorney
John B. Connally Building
Texas A&M University System
301 Tarrow, 6th Floor
College Station, Texas 77840-7896

OR98-2644

Dear Ms. Smestuen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119624.

Prairie View A&M University (the "university") received a request for the dispatch logs for the months of June and July 1998. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. You also claim that social security numbers and driver's license numbers are confidential under sections 552.101 and 552.130 of the Government Code respectively. We have considered the exception you claim and reviewed the submitted information.

When asserting section 552.103(a), a governmental body must establish that the requested information relates to pending or reasonably anticipated litigation.¹ Thus, under section 552.103(a), a governmental body's burden is two-pronged. The governmental body

¹Section 552.103(a) excepts from required public disclosure information:

- (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and
- (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

must establish that (1) litigation to which the governmental body is a party is either pending or reasonably anticipated, and that (2) the requested information relates to that litigation. See *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.--Austin 1997, no pet.); Open Records Decision No. 551 at 4 (1990).

You claim that the information contained in the logs relates to the allegations of "illegal activity" contained in the requestor's complaint in *Foster v. Hines*, No. A 97CA725 (W.D. Tex., filed Dec. 9, 1997). The complaint states, "Foster's claims include retaliation for exercising his First Amendment rights to freedom of speech and freedom of association pursuant to 42 U.S.C § 1983, retaliation claims pursuant to the Texas Whistleblower [sic] Act and a claim of intentional infliction of emotional distress." In this instance, you have failed to establish the relationship of the requested information to the litigation with the requestor. Therefore, you may not withhold the requested information under section 552.103 of the Government Code.

In addition, Open Records Decision No. 394 (1983) found that there was no qualitative difference between the information contained in police dispatch records and that which was expressly held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W. 2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975, writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976)).² Thus, we concluded that a police record of calls answered, like front page offense report information, is generally public. Open Records Decision No. 394 (1983). Accordingly, the department must release the submitted information.

You also claim that the driver's license numbers and the social security numbers contained in the dispatch logs are excepted from public disclosure pursuant to sections 552.101 and 552.130 of the Government Code. Section 552.130 of the Government Code reads in pertinent part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;

(2) a motor vehicle title or registration required by an agency of this state.

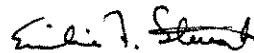
We conclude that the university must withhold the driver's license numbers and license plate numbers based on section 552.130.

²In *Houston Chronicle*, the court of appeals held that the public had a right to the information usually contained on the front page of an offense report: the offense committed, location of the crime, identification and description of the complainant, the premises involved, the time of the occurrence, property involved, vehicles involved, description of the weather, a detailed description of the offense in question and the names of the investigating officers. The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

Lastly, federal law may prohibit disclosure of the social security numbers. A social security number is excepted from required public disclosure under section 552.101 of the Open Records Act in conjunction with the 1990 amendments to the federal Social Security Act, § 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS/nc

Ref.: ID# 119624

Enclosures: Submitted documents

cc: Mr. William A. Foster
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(w/o enclosures)